

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

**Proposing rule making related to weights and measures
and providing an opportunity for public comment**

The Agriculture and Land Stewardship Department hereby proposes to amend Chapter 85, “Weights and Measures,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 215.24.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 215.

Purpose and Summary

This proposed rule making implements a number of amendments to reflect current industry and departmental practices. These amendments do the following:

- Allow a scale pit to include a one-inch drop for drainage.
- Require Department approval for modifications that attach to or touch a scale.
- Allow master scale weights to be sealed every two years, as opposed to every year.
- Update several industry standards by reference. The “Security Seal” section of the National Institute of Standards and Technology (NIST) Handbook was renumbered as G-UR4.5 due to an update of the Handbook. Two references to that section have been updated accordingly.
- Require fuel product names that are displayed in advertising to match those listed on the fuel dispenser.
- Require flex fuel hoses to be separate from other fuel hoses, as required already by the Environmental Protection Agency (EPA).
- Establish a servicer’s license fee, equal to the amount previously set in statute, to reflect updates to Iowa Code section 215.23.
- Provide a general cleanup of existing rules.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 18, 2022. Comments should be directed to:

Colin Tadlock
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Phone: 515.281.7808
Email: colin.tadlock@iowaagriculture.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** implementation sentence in rule **21—85.5(215)**:

This rule is intended to implement Iowa Code section 215.18.

ITEM 2. Amend subrule 85.11(1) as follows:

85.11(1) In the construction of a scale pit, walls must be of reinforced concrete. A slab floor must be installed in the pit. The floor must be at least 12 inches thick with a minimum of grade 40 reinforcement rod running into all piers and sidewalls, installed according to the manufacturer’s specifications. There shall be an approach at each end of the scale of not less than ten feet, and said approach shall be of reinforced concrete 12 inches thick on a level with the scale deck. A slope of a one-inch drop across the ten-foot span may be allowed for drainage.

ITEM 3. Amend subrule 85.12(6) as follows:

85.12(6) Scale platform and indicator shall be protected from wind and other elements which could cause inaccurate operation of the scale. Protection modifications that attach to or touch the scale or parts attached to the scale shall be approved by the department prior to installation.

ITEM 4. Amend rule 21—85.13(215) as follows:

21—85.13(215) Master weights. Master scale test weights used for checking scales after being overhauled must be sealed ~~by the department of agriculture and land stewardship, division of weights and measures,~~ as to their accuracy once ~~each year~~ every two years. Said weights after being sealed are to be used only as master test weights.

This rule is intended to implement Iowa Code section 215.17.

ITEM 5. Renumber subrule **85.18(8)** as **85.18(3)**.

ITEM 6. Adopt the following new heading preceding rule **21—85.30(215)**:

REGISTERED SERVICERS

ITEM 7. Adopt the following new rule 21—85.30(215):

21—85.30(215) Servicer's license fee. The fee for a servicer's license shall be \$10. The license shall be valid for two years from its date of issuance.

This rule is intended to implement Iowa Code section 215.23.

ITEM 8. Amend subrule 85.35(2) as follows:

85.35(2) In accordance with the contemplated revision of National ~~Bureau of Standards~~ Institute of Standards and Technology Handbook 44-4th Edition, G-UR4.4 G-UR4.5 (Replacement of Security Seal), accredited repair and testing companies shall be authorized to affix a security seal, properly marked with the identification of such company.

ITEM 9. Amend subrule 85.39(2) as follows:

85.39(2) The National Institute of Standards and Technology (NIST) Handbook 130, Uniform Laws and Regulations in the Areas of Legal Metrology and Fuel Quality, Handbook 133, Checking the Net Contents of Packaged Goods, Type Evaluation, and all supplements to these handbooks, as published by the National Institute of Standards and Technology amended or revised as of January 1, 2020, are adopted in their entirety by reference except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship.

ITEM 10. Amend rule 21—85.40(215), introductory paragraph, as follows:

21—85.40(215) Inspection ILP inspection tag or mark. If a meter is found to be inaccurate, an appropriate "inaccurate" card and a "repair and placing in service" card shall be left with the meter.

ITEM 11. Amend rule 21—85.41(215) as follows:

21—85.41(215) Meter repair. If the meter has not been repaired within 30 days, the meter ~~will~~ may be condemned and a red condemned tag ~~will~~ may be attached to the meter.

This rule is intended to implement Iowa Code section 215.5.

ITEM 12. Amend rule 21—85.42(215) as follows:

21—85.42(215) Security seal. In accordance with the contemplated revision of National Institute of Standards and Technology Handbook 44, ~~Gur-4.4~~ G-UR4.5 (Replacement of Security Seal), accredited repair and testing companies shall be authorized to affix a security seal, properly marked with the identification of such company.

This rule is intended to implement Iowa Code section 215.12.

ITEM 13. Amend subrule 85.48(2) as follows:

85.48(2) Petroleum product retailers, if they elect to advertise the unit price of their petroleum products at or near the curb, storefront or billboard, shall display the price per gallon or liter. The advertised price shall equal the computer price settings shown on the metering pump or shall be displayed in a manner clear to the purchaser for discounts offered for cash payment. Product names displayed shall match the product names on the retail motor fuel dispensers and all consumer receipts.

ITEM 14. Amend rule 21—85.50(214,214A,215) as follows:

21—85.50(214,214A,215) Blender pumps. Motor fuel blender pumps or blender pumps installed or modified after November 1, 2008, which sell both ethanol blended gasoline classified as higher than

E-15 and gasoline need to have at least two hoses per pump to separate registered gasoline fuels from flex fuels.

This rule is intended to implement Iowa Code section 214A.2.